

United States District Court
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No: 06-CR-64

ALAN KLEBIG,

Defendant.

COURT MINUTES
HONORABLE CHARLES N. CLEVERT, JR., PRESIDING

Date: March 2, 2011

Proceeding: Sentencing

Start Time:	9:41:42 a.m.	End Time: 10:20:13 a.m.
	10:36:29 a.m.	10:58:14 a.m.
	3:10:03 p.m.	3:38:51 p.m.

Court Reporter:	FTR Gold	Deputy Clerk: Kris Wilson
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Appearances:	Plaintiff:	Assistant U.S. Attorney Gail J. Hoffman
	Defendant:	Alan Klebig with Attorney Calvin R. Malone
	USPO:	Cindy McHenry

Disposition: The court finds that the defendant did not testify truthfully at trial and denies the defendant's objection to the obstruction of justice enhancement.

The defendant is sentenced to a concurrent sentence of 27 months imprisonment as to the three-count Superseding Indictment followed by a concurrent period of 3 years supervised release. See Judgment for additional information.

The defendant is advised of his appeal rights and will confer with his counsel regarding the filing of an appeal.

Notes: The court hears oral argument on the enhancement for obstruction of justice.

The defense argues that there is no evidence establishing that the defendant's testimony was false when Mr. Klebig stated that he never saw Trial Exhibit 1 (the firearm recovered from under his bed) with Trial Exhibit 3 (the oil can) until the government introduced them together at trial.

The defendant acknowledged that he used the oil can on the .22 found in the closet but not on the sawed off .22.

(10:10)

The court examines Trial Exhibits 1 through 4.

The court is not convinced that the defendant testified falsely as to the weapons found in his home after the house fire and notes that at trial the fire inspector did not have a clear recollection. However, the court finds that the defendant testified falsely at trial when he stated that he believed Trial Exhibit 1 was not a rifle, and that he had never seen Trial Exhibits 1 and 3 together until the government presented the items at trial. Therefore, the defendant's objection to the obstruction of justice enhancement is denied.

The court adopts the advisory guideline range as set forth in the PSR.

The parties agree that PSR paragraph 28 is to be corrected to reflect Hwy 26, not 256.

The government recommends a concurrent sentence of 27 months imprisonment as to each of the three counts.

The defense seeks a sentence of time served.

The defendant is permitted to self-report for service of sentence.